

(2012) 11 MAD CK 0052

In the Madras High Court

Case No : Writ Petition No. 26180 of 2012, M.P. No. 1 of 2012

S. Panneerselvam

APPELLANT

Vs

The Director, Information and Public Relations Department,
Government of Tamil Nadu, Port St. George, Chennai-9, The
Registrar, O/o. The Registrar of News Papers for India, Rajaji
Bhavan, Besant Nagar, Chennai-600090, The Chairman,
Press Council of India, Sookhana Bhavan, 8-CGO Complex,
Lodhi Road, New Delhi-110003 and S. Kamaraj

RESPONDENT

Date of Decision : 01-11-2012

Acts Referred:

Press Council Act, 1978 — Section 14, 5, 9

Citation : (2012) WritLR 1082

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : B. Gurunathan, for the Appellant; S. Diwakar, Addl. Govt. Pleader for Respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

N. Paul Vasanthakumar, J.—In this writ petition, petitioner is challenging the order of the Press Council of India dated 27.3.2012 and

praying for a direction to conduct fresh enquiry after affording fair opportunity of hearing to the petitioner. The petitioner is the Editor of "Vil

Murasu" Monthly magazine, published within the State of Tamil Nadu, which claims to be highlighting the social problems and bringing the same to

the knowledge of the Government authorities. The 4th respondent, who is a P.G. Teacher working in the Government Higher Secondary School,

Perambalur, gave a complaint on 4.10.2008 before the Press Council of India against the petitioner, who is the Editor of "Vil Murasu" magazine,

stating that the said magazine published objectionable articles in May, June, July

and August, 2008 issues. Petitioner made unconditional apology to the 4th respondent by letter dated 20.8.2008 for having published such objectionable articles. The 4th respondent also lodged a private complaint before the Judicial Magistrate Court, Perambalur, which is pending as C.C. No. 334 of 2008 as on date.

2. The contention of the petitioner is that the third respondent passed the impugned order dated 27.3.2012 without hearing the petitioner and imposed the punishment of Censure for gross violation of Journalistic Ethics and a copy was communicated to the first respondent for action, as they deem fit in the matter. The said order is challenged in this writ petition mainly on the ground of violation of principles of natural justice.

According to the petitioner, on 18.11.2011 hearing date was fixed for the appearance of petitioner and on that day the petitioner sent an E-Mail to the third respondent stating that due to his ill-health, he was not able to appear.

3. The learned counsel appearing for the petitioner reiterated the contentions raised in the writ petition and submitted that the order of the third respondent is liable to be set aside on the ground of violation of principles of natural justice and the matter may be remitted back to the third respondent to pass fresh orders after affording the opportunity of hearing to the petitioner.

4. The offending articles published in the monthly magazine called "Vil Murasu" in June, July and August, 2008 having not been filed along with the writ petition, the learned counsel for the petitioner was directed to file the said offending publications, pursuant to which xerox copies of the publications were filed by way of additional Typed set of papers on 1.10.2012 and the same was taken on file.

5. The Press Council of India viz., the third respondent is empowered to entertain the complaint given by any person under the provisions of the Press Council of India Act, 1978, for maintaining the standards of Newspapers and the Press Council is constituted u/s 5 of the Act. The meetings of the Press Council and Committee is to be convened in terms of Section 9. Section 14 of the Act deals with entertaining complaints against the Press and the procedures to be followed, which reads as follows:

14. Power to Censure:-

(1) Where, on receipt of a complaint made to it or otherwise, the council has

reason to believe that a newspaper or news agency has offended against the standards of journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct, the council may, after giving the newspaper, or news agency, the editor or journalist concerned an opportunity of being heard, hold an inquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be:

Provided that the Council may not take cognizance of a complaint if in the opinion of the Chairman, there is no sufficient ground for holding an inquiry.

(2) If the Council is of the opinion that it is necessary or expedient in the public interest so to do, it may require any newspaper to publish therein in

such manner as the Council thinks fit, any particulars relating to any inquiry under this section against a newspaper or news agency, an editor or a

journalist working therein, including the name of such newspaper, news agency, editor or journalist.

(3).....

From the above statutory provision it is evident that on receipt of a complaint, the Press Council, on satisfaction that a Newspaper has violated the

Journalistic Ethics, may after giving the Newspaper or News Agency, the Editor or Journalist, opportunity of hearing, hold an enquiry and by

recording reasons in writing, warn, admonish or censure the Newspaper, News Agency, the Editor or the Journalist or disapprove the conduct of

the Editor, Journalist. Thus, the Press Council is vested with the power to warn, admonish or censure the News paper/News Agency, Editor or

Journalist, after affording opportunity to the concerned person and after conducting enquiry.

6. In the case on hand, the petitioner was already issued with a notice for appearance/hearing by the third respondent stating that the Enquiry

Committee will take up the matter for hearing on 18.11.2011 at New Delhi. The petitioner failed to appear on the said date of hearing and sent an

intimation requesting postponement of hearing on 18.11.2011 and the same is

made clear in E-Mail sent by the petitioner, a copy of which is filed at page No. 13 of the Typed Set of papers, which was sent on 18.11.2011 at 11.20 a.m. Thus, it is evident that before the Committee took up the matter for hearing on 18.11.2011 at New Delhi, no intimation requesting postponement of the hearing to a future date was communicated by the petitioner. Thus, the petitioner has not availed the opportunity of hearing provided to him on 18.11.2011 at New Delhi. If the petitioner requested the third respondent or sent any communication to the office of the third respondent well before the date of hearing, that was on 18.11.2011, petitioner may be justified in contending that without considering his request for postponement of hearing, third respondent had proceeded with enquiry and passed orders. The petitioner having sent E-Mail after the time of hearing was over, he is not justified in blaming the third respondent, as he failed to avail the opportunity of hearing provided on 18.11.2011. Thus, it is evident that the petitioner has to blame himself for not availing the opportunity of hearing provided to him.

7. It is to be further noted that even in the affidavit filed in support of the writ petition, in paragraph 3, petitioner has accepted the publication of objectionable articles in the magazine and prayed for unconditional apology before the 4th respondent on 20.8.2008, which clearly establishes the fact of admission of publication of objectionable articles in May, June, July and August, 2008 issues. The said apology having not been accepted by the 4th respondent, he lodged a complaint on 4.10.2008 before the third respondent.

8. The 4th respondent is aggrieved over the defamatory publication of the articles in the magazine by the petitioner, making allegations of immorality, giving bribe for getting fellowship awarded and to become Senate Member of Annamalai University and allegedly made brokerage in securing admissions in different courses in the said University, etc. The said defamatory publications were gone into by the Enquiry Committee of the third respondent as per the power conferred u/s 14 and the Press Council of India Act, 1978 and recommended to the third respondent to issue Censure order. Petitioner having not denied the publication made in the magazine in the issues published in June, July and August, 2008 against the 4th respondent and having accepted the same and pleaded for

apology, petitioner is not entitled to take a different stand in the matter before the 3rd respondent or before this Court. The opportunity given by the third respondent to the petitioner to explain his case before the Committee was also not utilised by the petitioner. Taking into consideration all the above facts, this Court is unable to find any reason to interfere with the order of the third respondent dated 27.3.2012. Consequently the writ petition is dismissed in limine. No costs. Connected miscellaneous petition is also dismissed.